

Amend Section 22973 of the Business and Professions Code to establish a reinstatement fee for the retailer's license required under the Cigarette and Tobacco Products Licensing Act of 2003 in order to encourage license renewal compliance.

Source: Excise Taxes and Fees Division

Existing Law

Under existing law, the Cigarette and Tobacco Products Licensing Act (Licensing Act) requires a retailer to have in place and maintain a license to engage in the sale of cigarettes or tobacco products. A retailer license is valid for a 12-month period and must be renewed annually.

In order to obtain a license, a retailer must file a license application accompanied by a one-time license fee of \$100 for each retail location. Although a retailer license must be renewed annually, the \$100 license fee per retail location is only paid once with the initial application.

Comments

Currently, the Board of Equalization (Board) has licensed about 38,000 retailers to engage in the sale of cigarettes and tobacco products in California. Since the inception of the Licensing Act, approximately 2000 retailers have failed to renew their annual license, but they continue to engage in the sale of cigarettes and tobacco products.

The Board issues multiple license renewal notices to retailers. Approximately 90 days prior to the expiration date of a retailer license, the Board sends a renewal application to the retailer licensee. A reminder notice and a renewal application are sent approximately 30 days prior to the license expiration date if the retailer does not respond to the initial notice. Once the retailer license expires, the retailer is sent a license close-out notice along with another renewal application.

Board staff will reinstate a closed out retailer license, subject to the provisions of the Licensing Act, upon receipt of the renewal application. Reinstatement, rather than requiring the retailer to obtain a new license, provides the continuity necessary for the Board to track the history of the licensee (i.e. violations and suspensions).

Cigarette or tobacco products retailers that have allowed their licenses to expire generally do not submit a renewal application until a distributor or wholesaler refuses to sell to them because they are unlicensed or until they have been cited for a violation of the Licensing Act by a Board inspector.

The Board follows up on closed-out retailer licenses by inspecting the expired retailer license locations to ensure that cigarettes or tobacco products are no longer being sold. If retailers with an expired license continue to sell cigarettes or tobacco products, they will be cited for unlicensed sales of such products, which for the first offense results in the issuance of a "Warning Notice" to the licensee. In addition, the retailer will be cited for failure to display a license which carries a five hundred dollar (\$500) fine.

This Proposal

This proposal would impose a \$100 reinstatement fee if a license is reinstated after its expiration. The reinstatement fee would provide an incentive for licensees to timely renew their retailer license, thereby avoiding citations and costly fines. The reinstatement fee would also partially offset the cost of staff resources necessary to renew, close out and reinstate retailer licensees, which would allow staff to pursue other compliance-related issues.

Section 22973 of the Business and Professions Code is amended to read:

22973. (a) An application for a license shall be filed on or before April 15, 2004, on a form prescribed by the board and shall include the following:

(1) The name, address, and telephone number of the applicant.
(2) The business name, address, and telephone number of each retail location. For applicants who control more than one retail location, an address for receipt of correspondence or notices from the board, such as a headquarters or corporate office of the retailer, shall also be included on the application and listed on the license. Citations issued to licensees shall be forwarded to all addressees on the license.

(3) A statement by the applicant affirming that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this division or any rule of the board applicable to the applicant or pertaining to the manufacture, sale, or distribution of cigarettes or tobacco products. If the applicant is unable to affirm this statement, the application shall contain a statement by the applicant of the nature of any violation or the reasons that will prevent the applicant from complying with the requirements with respect to the statement.

(4) If any other licenses or permits have been issued by the board or the Department of Alcoholic Beverage Control to the applicant, the license or permit number of such licenses or permits then in effect.

(5) A statement by the applicant that the contents of the application are complete, true, and correct. Any person who signs a statement pursuant to this subdivision that asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in the county jail, or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and the fine.

(6) The signature of the applicant.

(7) Any other information the board may require.

(b) The board may investigate to determine the truthfulness and completeness of the information provided in the application. The board may issue a license without further investigation to an applicant for a retail location if the applicant holds a valid license from the Department of Alcoholic Beverage Control for that same location.

(c) The board shall provide electronic means for applicants to download and submit applications.

(d) (1) A one-time license fee of one hundred dollars (\$100) shall be submitted with each application. An applicant that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a

single application for those licenses with a one-time license fee of one hundred dollars (\$100) per location.

(2) The one-time fee required by this subdivision does not apply to an application for renewal of a license for a retail location for which the one-time license fee has already been paid. If a license is reinstated after its expiration, the retailer, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to one hundred dollars (\$100).